

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMERICAN-ARAB ANTI-
DISCRIMINATION COMMITTEE, et al.,

Plaintiffs,

V.

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY,

Defendant

CIVIL ACTION NO. 04-11652-GAO

MOTION TO RETAIN SINGLE COPY OF SEALED DOCUMENTS

The Plaintiffs respectfully request that this Court modify its Order on the United States *Ex Parte* Emergency Motion to Seal Documents and Enjoin Their Distribution to the extent that the Court allow counsel for the Plaintiffs to retain a single copy of the documents in question. As grounds for this Motion, Plaintiffs state the following:

1. On July 27, 2004, counsel for the Plaintiffs were provided with an affidavit of Lewis P. Best with attachments and exhibits, all filed in support of the Defendant's objection to Plaintiff's request for a preliminary injunction.
2. Later on July 27, 2004, the United States filed an emergency motion seeking to seal the aforementioned documents in the Court's record pending further order; to prohibit the parties in possession of the documents from distributing or otherwise disseminating the materials pending a final decision on the status of the documents; and to require that all parties return copies of the documents to counsel for the Defendant.
3. The Plaintiffs intend to object to the sealing of these documents and will need a copy of the documents in order to frame the argument against sealing.

4. No harm can be caused because counsel for the Plaintiffs have already read the documents.
5. In addition, Plaintiffs' counsel made markings on the original documents provided. These markings constitute attorney work-product, which is confidential and not subject to disclosure to the opposing party or the United States.
6. Plaintiffs' counsel have not distributed the documents in question to any other person and are holding the documents in circumstances which will protect their confidentiality pending this Court's final decision on the status of the documents. Further, Plaintiffs will abide by the Court Order not to distribute or otherwise disseminate the documents in any format or manner until a final decision is made as to their status and agree to file any papers with the Court citing to the documents under seal.
7. Thus, counsel for the Plaintiffs request that this Court modify its Order and deny the relief requested by the United States that counsel return the documents to counsel for the MBTA.

WHEREFORE, Plaintiffs respectfully request that this Court modify its Order on the United States *Ex Parte* Emergency Motion to Seal Documents and Enjoin Their Distribution to the extent that the Court allow counsel for the Plaintiffs to retain a single copy of the documents in question.

Respectfully submitted,

For the Plaintiffs
By their Attorneys,

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CERTIFICATE OF CONFERENCE PURSUANT TO L.R. 7.1(A)(2)

Pursuant to L.R. 7.1(A)(2), I certify that I have conferred in good faith with counsel for the United States and attempted to confer with counsel for the MBTA in an attempt to resolve the issue that is the subject of the accompanying motion.

Date: July 28, 2004 /s/ J. Lizette Richards

CERTIFICATE OF SERVICE

I certify that on this day a true copy of the above document was served upon the attorney of record for each party not using CM/ECF by mail.

Date: July 28, 2004 /s/ J. Lizette Richards